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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91220882
Party	Defendant Tulsa Athletics, LLC
Correspondence Address	TULSA ATHLETICS LLC 4802 EAST 15TH STREET TULSA, OK 74012 UNITED STATES
Submission	Answer
Filer's Name	Sonny Dalesandro
Filer's e-mail	sonny@tulsaathletics.com, pam353@utulsa.edu
Signature	/SD/
Date	04/03/2015
Attachments	Athletics opposition response April.pdf(235371 bytes )

Mailed: April 3, 2015

re: Opposition No: 91220882

Serial No: 86154616

Cancellation No: 92060644

Registration No: 4549532

In re Application Serial No. 86/154,616 and Supplemental Registration No. 4,549,532

Filed: December 30, 2013 and Supplemental Registration Issues: June 10, 2014

For Marks: TULSA ATHLETICS EST. 2003 and Design and TULSA ATHLETICS

Published in the Official Gazette: May 20, 2014

ATHLETICS INVESTMENT GROUP LLC D/B/A THE OAKLAND ATHLETICS  
BASEBALL COMPANY,

Opposer/Petitioner

v.

TULSA ATHLETICS LLC

Applicant/Registrant

**RESPONSE TO COMBINED NOTICE OF OPPOSITION**

**AND PETITION FOR CANCELLATION**

In response to the allegations made by the Oakland Athletics (“Petitioner”):

1. Tulsa Athletics LLC acknowledges that the Petitioner is owner of the Oakland Athletics club.
2. Tulsa Athletics LLC acknowledges that the petitioner has used the marks “Athletics” and “A’s”.

3. Tulsa Athletics LLC acknowledges that the petitioner is associated with the colors green and gold.

4. Tulsa Athletics LLC does not contest the petitioner's U.S. federal registrations.

5. Tulsa Athletics LLC acknowledges the petitioner's use of the "Athletics" mark in connection with baseball games and related merchandise.

6. Tulsa Athletics LLC acknowledges public goodwill associated with the Petitioner.

7. Tulsa Athletics LLC does not contest any statement made in Article 7 of the Notice of Opposition made in regard to our trademark registration #4,549,532.

8. Tulsa Athletic s LLC does not contest any claims made in Article 8.

9. Tulsa Athletics LLC does not contest any claims made in Article 9.

10. Tulsa Athletics LLC does not contest any statement made in Article 10.

11. Tulsa Athletics LLC used the trade name "Boston Avenue Athletic Club" with a USASA soccer team that preceded the Tulsa Athletics organization by 8 years.

However, Tulsa Athletics LLC acknowledges that the "Tulsa Athletics" mark was not used in a commercial context prior to claimed first use of April 4, 2013.

12. Tulsa Athletics LLC acknowledges that Tulsa Athletics LLC offers for sale apparel and other merchandise at <http://www.tulsaathletics.com>

13. Tulsa Athletics LLC feels strongly that the services offered by the Tulsa Athletics are easily distinguished from the service provided by the Oakland Athletics. The average member of the public would have no reasonable cause to associate the Tulsa Athletics, a minor league soccer franchise located in Tulsa, Oklahoma, with the Oakland Athletics, a major league baseball franchise located in Oakland, California. The two organizations are easily distinguished by the nature of the individual sports, the geographic location each organization is located in, and the scale of the business.

14. Tulsa Athletics LLC does not contest that the word "Athletics" used in the "Tulsa Athletics" mark is identical to the word "Athletics" used in the "Oakland Athletics" mark.

15. Tulsa Athletics LLC acknowledges that the Petitioner is known as the "Athletics" or "A's"

16. Tulsa Athletics LLC acknowledges that Tulsa Athletics LLC is using the names "Athletics" and "A's" to refer to the Tulsa Athletics.

17. Tulsa Athletics LLC acknowledges that Tulsa Athletics LLC uses the words "Tulsa Athletics" in an Old-English stylization.

Tulsa Athletics LLC contests that the “Tulsa Athletics” stylization is easily distinguished from The “Tulsa Athletics” Old English stylization is easily distinguished from the “Athletics” stylization used by the Oakland Athletics. Tulsa Athletics does not believe that the “Athletics” stylization used by the Oakland Athletics is accurately characterized as an ‘Old English’-style typeface or stylization.

The Tulsa Athletics Design Mark, shown below:



is easily and reasonably distinguished from the Oakland Athletics design mark, as shown below.



18. Tulsa Athletics LLC acknowledges that certain Oakland Athletics marks contain the term “A’s”.

19. Tulsa Athletics LLC does not contest that the term “A’s” is used in one instance on <http://www.tulsaathletics.com>

20. Tulsa Athletics does not contest the use of the Athletics Trade Dress colors of green and gold as shown in Article 20 of the Notice of Opposition.

21. Tulsa Athletics LLC does not contest that the Tulsa Athletics sell merchandise and apparel in the colors of green and gold.

However, Tulsa Athletics does not sell apparel and merchandise with the term “A’s”, as asserted by the Petitioner. Additionally, all merchandise and apparel, including those shown by the Petitioner in Article 21, bears either the full “Tulsa Athletics” team name or the Tulsa Athletics crest, shown below.



The team's crest is pink and black, and features a unicorn facing a lion surrounding a soccer ball. This is completely dissimilar from any marks used by the Oakland Athletics.

No merchandise or apparel bears only the marks "Athletics" or "A's". The use of the full "Tulsa Athletics" team name or the use the Tulsa Athletics sufficiently distinguishes the Tulsa Athletics merchandise from any sold by the Oakland Athletics. No reasonable person would mistake Tulsa Athletics merchandise for Oakland Athletics merchandise.

The services offered by the Tulsa Athletics are easily distinguished from the services offered by the Oakland Athletics. No reasonable person would mistake a Tulsa Athletics minor league soccer match for an Oakland Athletics major league baseball game.

22. The Tulsa Athletics do not intend to trade upon the goodwill of the Oakland Athletics mark. The Tulsa Athletics selected green and gold as the team's colors to appeal to the civic pride of citizens in the team's geographic market of the city of Tulsa. The City of Tulsa is commonly referred to as "Green Country" by residents of Tulsa and surrounding areas, as demonstrated below:

#### Green Country veterans make honor flights

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23. The Tulsa Athletics make a significant and concerted effort to differentiate themselves from the Oakland Athletics, as previously demonstrated. The services provided by the Tulsa Athletics are easily distinguished from those of the Oakland Athletics, and no reasonable person would be confused or deceived about the nature of the Tulsa Athletics franchise.

24. The Tulsa Athletics contest that the use of the Tulsa Athletics mark confuses or deceives any reasonable person.

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on April 3, 2014, I caused a true and correct copy of the foregoing Response to Notice of Opposition and Petition for Cancellation to be sent via First Class Mail, postage prepaid, to Petitioner and Correspondent of Record, Oakland Athletics Baseball Company, in care of Mary L Kevlin, Esq., 1133 Avenue of the Americas, New York, New York, 10036.

  
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Vincent Dalesandro IV